In the High Court of Punjab and Haryana, Chandigarh.

C.W.P.No.18795 of 2006

Date of Decision: 28.11.2006

Om Parkash & Others. …Petitioners.

Versus

State of Haryana & Others. …Respondents.

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE M.M.S.BEDI

Present: Mr.Rakesh Gupta, Advocate for the Petitioners.

JUDGMENT

M.M.KUMAR, J. (ORAL)

The direction sought in the instant petition is that the petitioners be continued with the designation as Clerk instead of Senior Lab Assistant as has been sought to be changed vide order dated 8.11.2006 (Annexure P10). It is conceded fact that the petitioners, who were working as Senior Lab Assistants were adjusted against the posts of Clerk in various Schools vide order dated 23.8.2004 (Annexure P3). The language of that order shows that the petitioners were adjusted against the vacancy of a Clerk and they were to draw salary in their own pay scale. In other words, they were to draw a salary against the post of Clerk. By the impugned order, the District Education Officer, Kaithal, has now emphasised that their designation would continue to be that of Senior Lab Assistant and the petitioners would remain on their original post although they were to perform the additional duty of

Clerk (Annexure P10). They are required to be shown as Senior Lab Assistants in their Service Books.

After hearing the learned counsel, we do not find any legal infirmity in the impugned order dated 8.11.2006 (Annexure P10). The petitioners were adjusted against vacant post of Clerks after they were declared as surplus. The order dated 19.2.2004 (Annexure P1) passed by the respondent No.2- Director Secondary Education, Haryana, leaves no doubt in that regard and the same reads as under:-

> "You are requested to adjust the surplus lab. Attendants to the other schools wherever required and approval may be taken thereafter from the Directorate. In case some of the Lab. Attendants who could not be adjusted to other schools then those Lab. Attendants who are matriculate be adjusted against the vacant posts of Clerks and approval may be taken thereafter. As and when the post of the Lab. Attendant becomes available, those Lab. Attendants who are adjusted as Clerks, will be repatriated at the Distt. Level by the Distt. Education Officer themselves and information will be submitted to the Directorate".

This order finds mention in the order dated 23.8.2004 which leads to an erroneous impression that the petitioners were adjusted as Clerks. In fact, they have been adjusted against the post of Clerk in their own pay scale. Once that is the factual position then the petitioners cannot claim as of right that they should be given designation of a Clerk. If the impugned order is viewed in that right then no legal infirmity could be discovered. The argument of the learned counsel that there is no post of Senior Lab Assistant has not impressed us because the petitioners have been adjusted against the posts of Clerk but they are to continue with their designation as Senior Lab Assistant.

For the reasons aforementioned, we find no merit in the writ petition and the same is dismissed.

(M.M.KUMAR)
Judge

November 28, 2006 **(M.M.S.BEDI)**
dkb **Judge**